

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEMETRIUS PETTY,

Defendant.

ORDER

10-cr-188-bbc
12-cv-320-bbc

On May 30, 2012, I denied defendant Demetrius Petty's motion for post conviction relief under 28 U.S.C. § 2255 for his failure to show that either his conviction or sentence is illegal. In the same order, I also denied the issuance of certificate of appealability under the newly effective amendments to Rule 11 of the Rules Government Section 2255 Cases in the United States District Courts.

Now defendant has filed a notice of appeal from the May 30, 2012 order denying his post conviction motion under 28 U.S.C. § 2255 and a motion to proceed on appeal in forma pauperis. He also filed a copy of his request for a certificate of appealability addressed to the court of appeals which will be forwarded to the court of appeals for processing.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-

appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization “unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed.” Defendant had appointed counsel during the criminal proceedings against him and I do not intend to certify that the appeal is not taken in good faith. Defendant’s challenge to his sentence is not wholly frivolous. A reasonable person could suppose that it has some merit. Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000).

ORDER

IT IS ORDERED that defendant Demetrius Petty’s request for leave to proceed in forma pauperis on appeal is GRANTED.

Entered this 12th day of July, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge